NEW ZEALAND

In 1998, the U.S. trade surplus with New Zealand was $240 million. U.S. exports to New Zealand were $1.9 billion in 1998, a decrease of $72 million over the previous year. U.S. imports from New Zealand totaled $1.6 billion, up $66 million over the previous year. The stock of U.S. foreign direct investment amounted to $5.2 billion in 1997, representing a slight decrease from 1996. U.S. direct investment in New Zealand is largely concentrated in telecommunications, forestry and paper, food processing, manufacturing, transportation, and petroleum.

Overview

New Zealand is a valued partner in the global effort to reduce Barriers to the free flow of trade and investment, working closely with the United States in the world trade organization (WTO), Asia Pacific Economic Cooperation (APEC) and other multilateral fora. New Zealand's reform process has been largely unilateral, and it maintains an essentially open trade and investment regime. New Zealand is chairing APEC this year.

With the government's deregulation and privatization program in the late 1980's, New Zealand became a growing destination for U.S. foreign direct investment. The New Zealand-U.S. commercial relationship has also expanded rapidly. The government, led by Prime Minister Jenny Shipley, appears committed to continuing New Zealand's economic reforms. In 1998, the government removed tariffs on passenger and light commercial vehicles, except motor homes and ambulances; announced plans to remove all tariffs by 2006, four years before the date required to meet its APEC commitments; and continued to privatize government assets.

IMPORT POLICIES

Tariffs

New Zealand is one of the ten leading export markets for U.S. distilled spirits, with sales totaling more than $9.8 million in 1997. New Zealand has eliminated tariffs on imports of whisky, brandy and rum; but continues to assess tariffs of between 8 and 11 percent *ad valorem* on imports of liqueurs, gin and vodka. These rates are to be reduced to 5 percent *ad valorem* by July 1, 2000. The United States is seeking the elimination of these duties.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Regulations Regarding Genetically Modified Organisms ("GMOs")

A new regulatory body, the Environmental Risk Management Authority ("ERMA") has assumed responsibility for assessments of new organisms introduced into New Zealand. GMO review is now compulsory and first applications under the full process of public notification and hearing have occurred. Full release of a GMO has yet to take place in New Zealand.

In addition, a new mandatory standard for foods produced using biotechnology comes into effect May 13, 1999. The standard prohibits the sale of food produced using gene technology, unless the food has been assessed by the Australia New Zealand Food Authority (ANZFA) and listed in the standard. In December

1998, the Australia New Zealand Food Standards Council directed ANZFA to require labeling for virtually all foods produced using biotechnology. Draft labeling regulations will be considered in mid-1999.

USTR will be monitoring both of these programs to determine whether they are being implemented in a manner that constitutes a barrier to trade.

Sanitary and Phytosanitary controls

New Zealand maintains a strict regime of sanitary and phytosanitary control for virtually all imports of agricultural products. Opportunities for greater access to the New Zealand market remain limited for some U.S. agricultural products, while other products are subject to rigid pre-clearance requirements. However, there has been improvement over the past few years in access for some U.S. agricultural products.

Poultry

New Zealand maintains a complete prohibition on all imports of uncooked poultry. In June 1996 the Ministry of Agriculture published a qualitative review which characterized the disease risk of imported poultry as negligible. However, objections from the New Zealand poultry industry have prompted the ministry to carry out a more detailed risk assessment.

Salmon

Uncooked, headless, gilled and gutted salmon is now permitted to enter New Zealand from the United States, Australia, Canada, the European Union, and Norway pursuant to an August 1998 decision by the Government of New Zealand. The risk assessment also allowed for the importation of trout. But regulations barring the sale of trout are being applied to constrain trout imports following pressure from sports fishing interests.

LACK OF INTELLECTUAL PROPERTY RIGHTS PROTECTION

Parallel Imports

On May 16, 1998 the New Zealand Government passed an amendment to the Copyright Act legalizing parallel importing of all copyrighted works. As with Australia, New Zealand’s laws do not effectively deter against piracy. U.S. firms have reported no success in bringing criminal cases against pirated works, and New Zealand needs to update its laws to provide better protection. The U.S. Trade Representative initiated an Out-of-Cycle Special 301 review of New Zealand's intellectual property regime on May 26, 1998.

SERVICES BARRIERS

Telecommunications

While prospective entrants into New Zealand's deregulated telecommunications market face no legal restrictions, there has been a history of telecommunications market access complaints. Telecommunications firms have been required to deal directly with the former monopoly provider, Telecom New Zealand, for local access or telephone numbers, with court appeals as the only recourse if agreement cannot be reached. During 1998, Saturn Communications constructed alternate networks to Telecom's in some local markets to provide telephone and cable television services. When Telecom lowered its rates, but only in the areas in which Saturn was competing, Saturn lodged an appeal with the Commerce Commission. However, the Commission refused to constrain Telecom's use of predatory pricing to discourage competition.

Access for Pharmaceuticals

Pharmaceutical Management Agency (PHARMAC)

PHARMAC was established in 1993 as a limited liability company to manage the purchasing or funding of pharmaceuticals for the Health Funding Authority (HFA). The HFA is responsible for purchasing health services and supplies for all New Zealanders. PHARMAC administers the National Pharmaceutical Schedule on HFA's behalf. The Schedule lists medicines subsidized by the government and the reimbursement paid for each pharmaceutical. The schedule also specifies conditions for prescription of a product listed for reimbursement. At its creation, PHARMAC was exempted from New Zealand's normal competition laws, an exemption upheld in a 1997 High Court ruling in an umbrella court case brought against PHARMAC by New Zealand's Researched Medicines Industry (RMI) association. While New Zealand does not *per se* restrict the sale of non-subsidized pharmaceuticals in New Zealand, private medical insurance companies will not cover unsubsidized medicines. Thus, PHARMAC effectively controls what prescription medicines will be sold in New Zealand and, to a large extent, at what price they will be sold.

Pharmaceutical suppliers complain that it is difficult to list new chemical entities and line extensions on PHARMAC's schedule. In general, PHARMAC will not apply a subsidy to a new medicine unless it is offered at a price lower than currently available subsidized medicines in the same therapeutic class or unless the producer is willing to lower its price on another medicine already subsidized in another class. Pharmaceuticals can also be delisted if a competing product is selected to serve the market as the result of a tender or if a cheaper alternative becomes available and the manufacturer of the original product refuses to discount its price to that of the lower-priced alternative. PHARMAC's use of reference pricing, the practice of doing trade-off deals between classes of drugs, and tendering practices can negatively affect a company's revenue return on its intellectual property. The United States and New Zealand governments have begun a dialogue with the aim of alleviating impediments to market access from PHARMAC's practices.

INVESTMENT BARRIERS

Approval by the Overseas Investment Commission (OIC) is required for all foreign direct investment where an "overseas person" is to acquire or take control of "significant" assets in New Zealand. Investment screening diminishes the value of New Zealand’s GATs commitments. “Control" is defined as 25 percent ownership or a controlling interest in an asset. Significant assets include businesses or property worth more than NZD 10 million; land more than five hectares or worth more than NZD 10 million; and certain "sensitive" land more than 0.2 hectares (e.g. on islands, on or next to reserves, historic/heritage areas, foreshores, and lakes). Approval may not be granted to purchase assets for non-productive purposes, e.g. lifestyle property acquisitions.

ANTICOMPETITIVE PRACTICES

State Trading Enterprises

New Zealand maintains several agricultural producer organizations which enjoy statutory protection as monopoly sellers or which license sellers. Export monopolies remain in place for dairy, apples, pears, and kiwifruit. In its May 1998 budget, the GNZ announced its intention to remove the statutory backing of New Zealand's agricultural marketing boards and invited the boards to file plans by November 1998 for operating without statutory powers. Most plans reflected changes already endorsed by industry and included retaining export monopoly privileges.

The government is moving to break up vertically integrated monopolies with the aim of encouraging competition. In the electric utility sector, firms are being required to separate their line business (treated as a natural monopoly under threat of price regulation) from the energy and retail businesses (which is to function as a competitive market) by April 1999. In addition, the Electricity Corporation of New Zealand (ECNZ) is to be split into three state owned enterprises (SOE's), which are to compete with each other and other generators. Some of ECNZ's generation assets and interest in natural gas fields were already transferred in 1996 to contact energy (structured as an SOE). The government has requested indicative bids by mid-February for a 40 percent stake in contact energy, and the remaining 60 percent is expected to be sold in a share market float by May.

ELECTRONIC COMMERCE

New Zealand has no barriers that apply specifically to electronic commerce.